

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Justin Huang	Team: Squad #4	CCRB Case #: 202003620	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 05/23/2020 1:57 AM	Location of Incident: 575 East Tremont Ave in the Bronx	Precinct: 48	18 Mo. SOL 11/23/2021	EO SOL 5/4/2022	
Date/Time CV Reported Thu, 05/28/2020 6:05 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 05/28/2020 6:05 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Jonathan Gonzalez	00649	960603	NARCBMN
2. PO Edin Bacovic	04993	960189	048 PCT
3. SGT Michael Vega	05629	939646	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Jonathan Gonzalez	Abuse: Police Officer Jonathan Gonzalez stopped the vehicle in which was an occupant.	
B.PO Edin Bacovic	Abuse: Police Officer Edin Bacovic stopped the vehicle in which was an occupant.	
C.SGT Michael Vega	Abuse: Sergeant Michael Vega stopped the vehicle in which was an occupant.	
D.PO Edin Bacovic	Abuse: Police Officer Edin Bacovic searched § 87(2)(b)	
E.POM Jonathan Gonzalez	Abuse: Police Officer Jonathan Gonzalez frisked § 87(2)(b)	
F.POM Jonathan Gonzalez	Abuse: Police Officer Jonathan Gonzalez searched the vehicle in which was an occupant.	
G.PO Edin Bacovic	Discourtesy: Police Officer Edin Bacovic spoke discourteously to § 87(2)(b)	
H.PO Edin Bacovic	Abuse: Police Officer Edin Bacovic threatened § 87(2)(b) with the use of force.	
I.PO Edin Bacovic	Abuse: Police Officer Edin Bacovic interfered with § 87(2)(b)'s use of a recording device.	
J.PO Edin Bacovic	Abuse: Police Officer Edin Bacovic threatened to arrest § 87(2)(b)	
K.PO Edin Bacovic	Abuse: Police Officer Edin Bacovic threatened to arrest § 87(2)(b)	
L.PO Edin Bacovic	Abuse: Police Officer Edin Bacovic threatened to damage/seize § 87(2)(b)'s property.	
§ 87(2)(g), § 87(4-b)		
§ 87(2)(g), § 87(4-b)		

Officer(s)	Allegation	Investigator Recommendation
§ 87(2)(g), § 87(4-b)		

Case Summary

On May 1st, 2021, § 87(2)(b) filed a complaint with the CCRB on the CCRB website,
§ 87(2)(b)

On May 23rd, 2020, at approximately 1:57AM, in the vicinity of 575 East Tremont Avenue,
§ 87(2)(b) and his cousin § 87(2)(b) were driving towards a friend's house, located at
§ 87(2)(b). Police Officers Edin Bacovic, Jonathan Gonzalez, and Sergeant Michael
Vega, all from the 48th Precinct, pulled over § 87(2)(b) and § 87(2)(b) (**Allegations A-C:
Abuse of Authority, § 87(2)(g)**). PO Gonzalez and PO Bacovic then ordered § 87(2)(b) and
§ 87(2)(b) to step out of the car. PO Bacovic searched § 87(2)(b) while PO Gonzalez frisked
§ 87(2)(b) (**Allegations D and E: Abuse of Authority, § 87(2)(g)**). PO Gonzalez searched §
Edward's vehicle (**Allegation F: Abuse of Authority, § 87(2)(g)**). PO Bacovic repeatedly called
§ 87(2)(b) a "loser" and said that "he had no job," asked if § 87(2)(b) was uneducated, asked
how drunk he was, and told him, "I don't give a fuck what you think you are" (**Allegation G:
Discourtesy, § 87(2)(g)**). PO Bacovic threatened to use force against § 87(2)(b) (**Allegation
H: Abuse of Authority, § 87(2)(g)**). PO Bacovic interfered with § 87(2)(b) use of a
recording device (**Allegation I: Abuse of Authority, § 87(2)(g)**). PO Bacovic threatened to
arrest § 87(2)(b) and § 87(2)(b) (**Allegations J and K: Abuse of Authority, § 87(2)(g)**).
PO Bacovic threatened to seize § 87(2)(b) property (**Allegation L: Abuse of Authority,
§ 87(2)(g)**). § 87(2)(g), § 87(4-b)

There were no arrests made or summons issued as a result of this incident.

The CCRB received BWC footage regarding the incident (BR02-04).

§ 87(2)(b) declined to be interviewed regarding this incident.

Findings and Recommendations

Allegation (A) Abuse of Authority: Police Officer Jonathan Gonzalez stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (B) Abuse of Authority: Police Officer Edin Bacovic stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation (C) Abuse of Authority: Sergeant Michael Vega stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) (BR05) stated that § 87(2)(b) stopped at a red light at the intersection of East Tremont Avenue and Westchester Square. § 87(2)(b) was driving, while § 87(2)(b) was sitting in the front passenger seat. A black Toyota directly behind § 87(2)(b)'s vehicle flashed police lights and sirens and said via a loudspeaker to pull over to the left. § 87(2)(b) immediately pulled over. The black Toyota pulled up and stopped a few inches behind § 87(2)(b)'s car. PO Bacovic, PO Gonzalez, and Sgt. Vega all stepped out of their vehicle. PO Gonzalez approached § 87(2)(b) while PO Bacovic approached § 87(2)(b). PO Gonzalez said, "There's nothing else in the car but weed, right?" § 87(2)(b) said yes. § 87(2)(b) was familiar with the officers from a previous interaction with them § 87(2)(b). § 87(2)(b) stated that he was assaulted and arrested by the same officers). PO Gonzalez and PO Bacovic ordered both § 87(2)(b) and § 87(2)(b) to get out of the car. § 87(2)(b) did not ask why the officers pulled them over.

§ 87(2)(b) was uncooperative with the investigation despite numerous contact attempts (BR21-30).

PO Gonzalez (BR06) noticed § 87(2)(b) vehicle, which was driving in front of the officers' vehicle, commit a traffic infraction but did not remember what specific infraction they made. PO Gonzalez turned on police lights and sirens and pulled the vehicle over.

Sgt. Vega (BR07) was looking down at his department-issued phone and did not see § 87(2)(b) vehicle in front of them. When Sgt. Vega looked up, he saw that PO Gonzalez had activated his lights and pulled a vehicle over by the post office at Tremont Avenue in the Bronx. Sgt. Vega did not know why the vehicle was being pulled over, nor did he know who noticed the vehicle first. PO Gonzalez and PO Bacovic did not tell him why the vehicle was being pulled over, and neither officer provided him with a reason after the incident was over.

PO Bacovic (BR13) stated that he, Sgt. Vega, and PO Gonzalez observed § 87(2)(b) and § 87(2)(b) vehicle on Tremont Avenue committing a traffic infraction, which resulted in the vehicle stop, but PO Bacovic did not remember what the specific infraction was.

BWC footage from PO Bacovic, PO Gonzalez, and Sgt. Vega did not capture the alleged vehicle infraction. The vehicle is first shown after the officers had already pulled the vehicle over (BR02-04).

People v. Lucas, 183 Misc. 2d 639 (BR 31) states that “a police officer may stop a vehicle upon an objective indication of criminal activity, regardless of the true investigative motivations.”

§ 87(2)(g)
§ 87(2)(b) none of the officers could recall what the infraction was nor provide a reason for conducting the vehicle stop. In addition, the officers made no mention of the vehicle infraction to § 87(2)(b) or § 87(2)(b) during the incident and did not take any enforcement action related to the alleged violation. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Allegation (D) Abuse of Authority: Police Officer Edin Bacovic searched § 87(2)(b)

Allegation (E) Abuse of Authority: Police Officer Jonathan Gonzalez frisked § 87(2)(b)

§ 87(2)(b) was uncooperative with the investigation and therefore was not interviewed regarding this incident (BR21-30).

§ 87(2)(b) (BR05) heard PO Gonzalez ask § 87(2)(b) if “all they had in the car was weed,” and § 87(2)(b) said yes. PO Gonzalez and PO Bacovic ordered § 87(2)(b) and § 87(2)(b) to exit the vehicle. § 87(2)(b) and § 87(2)(b) complied. PO Bacovic searched § 87(2)(b) by grabbing the waistband of his pants and pulling his pants up, touching his “nuts and butt,” and patting him down on his upper torso and arms. PO Bacovic did not touch § 87(2)(b) skin during the search. PO Bacovic proceeded to search all of § 87(2)(b)'s pockets but did not recover anything. PO Gonzalez searched § 87(2)(b) in a similar manner. PO Bacovic later told § 87(2)(b) that he smelled marijuana in the car.

PO Bacovic (BR13) stated that he smelled marijuana smoke coming from § 87(2)(b) vehicle after he exited the police vehicle. PO Bacovic approached the front passenger side of the vehicle and observed marijuana crumbs on § 87(2)(b) shirt. PO Bacovic told § 87(2)(b) to exit the

vehicle and then frisked § 87(2)(b) for any contraband but did not recover anything. PO Bacovic frisked § 87(2)(b) waistband, his pockets, his arms, and around his ankles. PO Bacovic may have entered § 87(2)(b) pockets.

PO Gonzalez (BR06) stated that he walked up to the driver side of the vehicle, where he smelled marijuana and marijuana smoke. PO Gonzalez approached and spoke with § 87(2)(b) PO Gonzalez asked § 87(2)(b) if there was marijuana in the vehicle and § 87(2)(b) said yes. PO Gonzalez frisked § 87(2)(b) body for weapons and contraband. PO Gonzalez quickly went inside the pockets and pulled out a set of keys. PO Gonzalez did not recover any weapons or contraband.

Sgt. Vega (BR07) recalled PO Gonzalez and PO Bacovic telling § 87(2)(b) and § 87(2)(b) to step out of the vehicle due to the possibility of marijuana being in the vehicle. Sgt. Vega did not see or smell any marijuana from where he was standing at the rear of the vehicle.

At 01:25 of PO Bacovic's BWC video (BR02), PO Bacovic pats § 87(2)(b) waistband, up and down both his pants legs, pats the front pockets of his jacket, then unzips the jacket and lifts up the front part of his inner shirt. PO Bacovic reaches in-between the torso and jacket, pats the sides of his upper torso that is covered by the jacket. At 01:38, § 87(2)(b) says that he will be calling his investigator about PO Bacovic and other officers continuing to harass him. PO Bacovic replies, "Does he know you're smoking weed right now? There's weed crumbs all over your pants."

BWC footage from PO Gonzalez (BR03) shows PO Gonzalez asking § 87(2)(b) at 01:00 if all he has in the car was marijuana, and § 87(2)(b) says yes. PO Gonzalez tells § 87(2)(b) to exit the vehicle and begins to search him. At 01:07, PO Gonzalez reaches into § 87(2)(b) sweatshirt pockets with both hands and takes his hands back out and pats up and down § 87(2)(b) legs. At 01:29, PO Gonzalez asks § 87(2)(b) if he is wearing two pairs of pants and § 87(2)(b) says yes. PO Gonzalez reaches one hand into his pants past his waistband, moving his hand in-between the first and second pair of pants. At 01:45, PO Gonzalez reaches into PO Gonzalez's pants pockets and takes out § 87(2)(b) car keys.

People v. Chesnut, 43A.D. 2d 260 (BR14) states that "The smell of marijuana smoke, with nothing more, can be sufficient to provide police officers with probable cause to search an automobile and its occupants."

§ 87(2)(g)
§ 87(2)(b) testimony, PO Gonzalez's testimony, and PO Gonzalez's BWC footage all show § 87(2)(b) admitting to having marijuana in the vehicle. In addition, both PO Bacovic and PO Gonzalez testified that they smelled marijuana upon approaching the driver's seat of the vehicle. § 87(2)(g)

Allegation (F) Abuse of Authority: Police Officer Jonathan Gonzalez searched the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

§ 87(2)(b) (BR05) stated that PO Gonzalez searched § 87(2)(b)'s car under the hood, trunk, front and back seats, and glove compartment.

PO Gonzalez (BR06) stated that he searched the entire vehicle, including the driver's seat, under all seats, the glove box, the back seats, and the trunk. PO Gonzalez observed marijuana crumbs all over the front section of the vehicle, including on the seats and the floor. PO Gonzalez did not find

additional marijuana or other contraband in other parts of the vehicle.

At 02:21 in PO Gonzalez's BWC video (BR03), PO Gonzalez searches the driver's seat, the front console, the front passenger seat, the glove box, and the backseat. At 04:18, PO Gonzalez opens and searches the contents of the trunk.

People v. Chesnut, 43A.D. 2d 260 (BR14) states that "the smell of marijuana smoke, with nothing more, can be sufficient to provide police officers with probable cause to search an automobile and its occupants."

People v. Smith, 66 A.D. 3d 514 (BR 15) states that officers are given probable cause to search a vehicle based on the odor of marijuana in unspecified form.

PO Gonzalez stated that he smelled marijuana coming from § 87(2)(b) vehicle and § 87(2)(b) told PO Gonzalez that there was marijuana in the car. § 87(2)(g)

Allegation (G) Discourtesy: Police Officer Edin Bacovic spoke discourteously to § 87(2)(b)

Allegation (H) Abuse of Authority: Police Officer Edin Bacovic threatened § 87(2)(b) with the use of force.

It is undisputed that PO Bacovic called § 87(2)(b) a "loser" and "uneducated," and asked him "How drunk are you?" It is also undisputed that PO Bacovic told § 87(2)(b) "You think you're educated but you're not. I don't give a fuck what you think you are." It is undisputed that PO Bacovic made the following threats of force to § 87(2)(b) "Come at me sideways, I have no idea who you are. You're messing with the wrong cop right now," and "Put your hand in my face one more time and watch how that ends for you."

§ 87(2)(b) (BR05) stated that PO Bacovic told him that that he needed to get his life together, that he needed to get a job, and that the police were going to catch him and "lock him up (discussed below in Allegations I-L)" before telling him to exit the vehicle. After getting back into the car, § 87(2)(b) picked up his phone and started recording. § 87(2)(b) turned his phone toward PO Bacovic, who was standing by the front passenger seat, and PO Bacovic yelled at § 87(2)(b) to get his hand away from his face or he would "lock him up."

At 02:16, of PO Bacovic's BWC (BR02), PO Bacovic asks § 87(2)(b) how drunk he is. At 02:36, PO Bacovic tells § 87(2)(b) "Come at me sideways, I have no idea who you are. You're messing with the wrong cop right now." At 03:00, § 87(2)(b) states that he memorized the license plate of the officers' vehicle and that he would be calling his investigator. PO Bacovic says, "You a loser. That's all you do. You have no job." At 04:01, § 87(2)(b) says that the officers did not smell marijuana in the car and that they pulled him over for no reason. PO Bacovic responds, "Are you one of those guys that are uneducated? You are uneducated." At 04:21, PO Bacovic tells § 87(2)(b) "Get a job. Educate yourself. Weed is not legal." At 05:03, PO Bacovic says to § 87(2)(b) "You think you're educated but you're not. I don't give a fuck what you think you are." At 05:08, in response to § 87(2)(b) raising his phone up while recording, PO Bacovic tells him, "Put your hand in my face one more time and watch how that ends for you."

PO Bacovic (BR13) stated that when he asked § 87(2)(b) how drunk he was, he was referring to § 87(2)(b) and § 87(2)(b) being high on marijuana, not alcohol. PO Bacovic did not recall any

signs of intoxication beyond seeing and smelling marijuana and marijuana smoke. PO Bacovic said “come at me sideways” due § 87(2)(b) threat to call the CCRB and saying that the officers were harassing him and lacked probable cause to interact with him. PO Bacovic used “street slang” to build rapport and to warn § 87(2)(b) to change his behavior. PO Bacovic did not observe any physical signs from § 87(2)(b) that he interpreted as a threat to his safety. PO Bacovic considered § 87(2)(b) holding his hand out towards his face as he recorded as a possible physical threat. PO Bacovic told § 87(2)(b) he was a loser because § 87(2)(b) said that he had memorized the police vehicle’s license plate number and PO Bacovic thought that the only reason § 87(2)(b) memorized the information was to file a complaint against him. PO Bacovic had asked § 87(2)(b) if he was uneducated because marijuana is illegal, and § 87(2)(b) had marijuana crumbs on his person and could have been arrested for it. PO Bacovic said “I don’t give a fuck what you think you are” to § 87(2)(b) because he was agitated with § 87(2)(b). PO Bacovic said, “Put your hand in my face and watch how that ends for you,” because § 87(2)(b) moved his hand in close proximity to PO Bacovic’s face. PO Bacovic wanted to protect himself and prevent § 87(2)(b) from moving his hand and phone closer to him. PO Bacovic also meant that § 87(2)(b) could have been arrested if he hit PO Bacovic with his cell phone.

NYPD Patrol Guide Procedure 200-02 (BR16) states that officers are required to treat “every citizen with compassion, courtesy, professionalism, and respect.” Furthermore, officers must “maintain a higher standard of integrity than is generally expected of others.”

NYPD Patrol Guide procedure 221-01 (BR20) states that force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life, or when it is reasonable to place a person in custody or to prevent escape from custody. In all circumstances, any application or use of force must be reasonable under the circumstances.

§ 87(2)(g)

PO Bacovic cited that § 87(2)(b) threatened to file a complaint and raised his hand to record the interaction but did not provide any other reasons for why he considered § 87(2)(b) a potential threat to his safety. § 87(2)(g)

Allegation (I) Abuse of Authority: Police Officer Edin Bacovic interfered with § 87(2)(b) s use of a recording device.

Allegation (J) Abuse of Authority: Police Officer Edin Bacovic threatened to arrest § 87(2)(b).

Allegation (K) Abuse of Authority: Police Officer Edin Bacovic threatened to arrest § 87(2)(b).

Allegation (L) Abuse of Authority: Police Officer Edin Bacovic threatened to seize § 87(2)(b) property.

After PO Gonzalez finished searching the vehicle, PO Gonzalez and PO Bacovic told § 87(2)(b) (BR05) and § 87(2)(b) to get back in their vehicle. After getting back into the front passenger seat of the car, § 87(2)(b) started recording PO Bacovic. PO Bacovic stood in front of the passenger side window and shined his flashlight at § 87(2)(b) while he was recording. § 87(2)(b) believed that PO Bacovic was trying to obscure his attempt at recording by shining the light in his phone. PO Bacovic yelled at § 87(2)(b) to get his hand away from his face or he would “lock him up.” PO Bacovic told him he needed to respect the police and that he smelled weed in the car and said that the officers would impound his car.

PO Bacovic (**BR13**) stated that he shined his flashlight at § 87(2)(b) to see what he was doing and directed his beam at the side of the vehicle. PO Bacovic stated that if he did shine the flashlight at § 87(2)(b) phone, it was to determine what § 87(2)(b) was holding. PO Bacovic denied interfering with § 87(2)(b) attempt to record him, as he was already recording with his BWC and had no reason to object to § 87(2)(b) recording. PO Bacovic stated that both § 87(2)(b) and § 87(2)(b) could have been summonsed or arrested for marijuana, and § 87(2)(b) could have been arrested for the traffic infraction as well. To this end, PO Bacovic explained that by “coming back for the weed,” PO Bacovic meant that they could have been arrested for the marijuana. PO Bacovic explained that as general policy, individuals who are arrested would have their vehicles impounded. This was in relation to his testimony that § 87(2)(b) and § 87(2)(b) could have been arrested for marijuana.

At 04:33 in PO Bacovic’s BWC video (**BR02**), § 87(2)(b) holds his phone with his right hand and points it at PO Bacovic with the camera facing PO Bacovic. There is nothing in § 87(2)(b) left hand. PO Bacovic proceeds to shine his flashlight at § 87(2)(b) cell phone, with the beam directly pointing at § 87(2)(b) camera lens. When § 87(2)(b) raises and moves his cell phone, the beam of light follows along with the trajectory of the phone. At 04:41, § 87(2)(b) raises his phone toward his upper chest while recording PO Bacovic. In response, PO Bacovic says, “Don’t put your hand in my face. Do not put your hand in my face. If you put your hand in my face your man is coming back for that weed right there, and you’re coming back too, you heard?” At 04:53, PO Bacovic tells § 87(2)(b) that his car would be impounded if § 87(2)(b) put his hand near PO Bacovic’s face again.

Patrol Guide procedure 208-01 (BR17) states that an officer can affect an arrest without a warrant for an offense if there is reasonable cause to believe an offense took place in the officer’s presence, if there is reasonable cause that the person under arrest had committed a crime, or if a petty offense was committed within the officer’s presence.

NYPD Patrol Guide procedure 203-29 (BR18) states that officers are prohibited from intentionally blocking or obstructing cameras or other recording devices when there is no legitimate law enforcement reason to do so.

NYPD Patrol Guide Procedure 209-38 (BR19) states that “an individual is guilty of Unlawful Possession of Marijuana in the Second Degree if they possess up to, and including, one ounce of marijuana. An individual is guilty of Unlawful Possession of Marijuana in the First Degree if that person possesses over one ounce, up to, and including, two ounces of marijuana.”

PO Bacovic knew that § 87(2)(b) was holding his cell phone in his hand because he shined his flashlight to identify the cell phone before § 87(2)(b) began moving his hand. § 87(2)(g)

§ 87(2)(b). BWC footage shows § 87(2)(b) holding his phone pointed at PO Bacovic, and shows PO Bacovic shining his flashlight into § 87(2)(b) phone, following his movements as § 87(2)(b) moves his hand to continue his attempts to record. § 87(2)(g)

§ 87(2)(b). In addition, PO Bacovic stated that § 87(2)(b) and § 87(2)(b) could have been arrested for marijuana, but also stated that he threatened to arrest § 87(2)(b) in response to § 87(2)(b) lifting his phone up to record PO Bacovic, which is unrelated to any potential charges involving marijuana. Furthermore, neither PO Bacovic nor PO Gonzalez recovered any marijuana from their searches of § 87(2)(b) and § 87(2)(b) and PO Gonzalez did not recall if he recovered any marijuana from the vehicle search. § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g), § 87(4-b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- § 87(2)(b)
- Sgt. Vega has been a member of service for sixteen years and has been a subject in one CCRB complaint and three allegations, none of which were substantiated. § 87(2)(g)
- PO Gonzalez has been a member of service for five years and has been a subject in three CCRB complaints and five allegations, none of which were substantiated. § 87(2)(g)
- PO Bacovic has been a member of service for sixteen years and has been a subject in seven CCRB complaints and nine allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil, and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- On 09/24/2021, a FOIL request was submitted to the Office of the Comptroller. Results will be attached upon receipt (BR10).

- § 87(2)(b)
- § 87(2)(b)

Squad: _____4_____

Investigator: Justin Huang Investigator Huang 10/26/2021
Signature Print Title & Name Date

Squad Leader: Raquel Velasquez IM Raquel Velasquez 11/09/2021
Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____